

### **REMARKS**

Claims 1, 8-19, 40-42 and 57-63 are presently pending. Claims 20-39 and 43-56, which are drawn to non-elected subject matter, are canceled. No new matter has been added herewith. The following addresses the substance of the Office Action.

#### **Written Description**

Claims 58 and 60-63 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. In particular, the Examiner stated that the claims were drawn to a vast genus of immunologic fragments, derivatives or nucleic acids encoding said fragments or derivatives. The Examiner concluded that the specification does not disclose distinguishing and identifying features of a representative number of the genus of the immunogenic fragments, derivatives, or nucleic acids encoding said fragments or derivatives, to which the claims are drawn. Applicants have amended Claims 58 and 60-63 by removing recitation of immunogenic portions or sequence variants, or nucleic acids encoding immunogenic portions or sequence variants, thereby rendering the rejection moot. Accordingly, the claims are in compliance with the written description requirement and the Applicants respectfully request that the rejection be withdrawn.

#### **Enablement**

Claims 1, 8-15, 40-42 and 58-63 were rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner stated that the specification is not enabled for any vaccine composition for vaccinating dogs comprising an agent capable of raising an immune response against *Mycoplasma cynos* (*M. cynos*) in a dog, wherein said agent comprises inactivated or attenuated *M. cynos*, and wherein said immune response is protective against Canine Infectious Respiratory Disease (CIRD). The Examiner asserted that the ability of an antigen to stimulate antibody production does not necessarily correlate with the ability to stimulate an immune response capable of protecting an animal from infection.

Applicants have amended Claims 1, 8-18, 40-42 and 57-63 to replace recitation of "vaccine composition" with "immunogenic composition." Support for the term "immunogenic composition" is found in the specification as filed, for example at page 7, third paragraph and

page 13, third paragraph. The *M. cynos* agent is described in the Specification as filed at page 14, third full paragraph through page 15, first paragraph and inactivation/attenuation of the agent is described at page 8, fourth full paragraph through page 9, first paragraph.

Moreover, referring to the Rule 132 declaration attached herewith, the Applicants provide data that shows that dogs challenged with the presently claimed immunogenic composition comprising an agent capable of raising an immune response against *M. cynos* did indeed produce an immune response in the dogs. The data show that four out of four dogs challenged with *M. cynos* developed antibodies directed against *M. cynos*. Thus, the specification is enabled for the presently claimed immunogenic compositions capable of raising an immune response. Accordingly, the Applicants respectfully request that the enablement rejection be withdrawn.

*No Disclaimers or Disavowals*

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

**Application No.:** 10/563,199  
**Filing Date:** September 1, 2006

Co-Pending Applications of Assignee

Applicant wishes to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
ERP02.001APC1DV	11/849931	VACCINE COMPOSITION FOR VACCINATING DOGS AGAINST CANINE INFECTIOUS RESPIRATORY DISEASE (CIRD)	04-Sep-2007
ERP02.003APC	10/522513	CANINE RESPIRATORY CORONAVIRUS (CRCV) SPIKE PROTEIN, POLYMERASE AND HEMAGGLUTININ/ESTERASE	22-Jun-2006
ERP02.003DV1	12/239527	CANINE RESPIRATORY CORONAVIRUS (CRCV) SPIKE PROTEIN, POLYMERASE AND HEMAGGLUTININ/ESTERASE	26-Sep-2008

**CONCLUSION**

In view of Applicants' amendments to the Claims and the foregoing Remarks, it is respectfully submitted that the present application is in condition for allowance. Should the Examiner have any remaining concerns which might prevent the prompt allowance of the application, the Examiner is respectfully invited to contact the undersigned at the telephone number appearing below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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